STATUTORY RULES OF NORTHERN IRELAND

2005 No. 143

COUNTY COURTS

County Court (Amendment) Rules (Northern Ireland) 2005

Made - - - -	*17th March 2005*
Coming into operation	*18th April 2005*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**1**), in exercise of the powers conferred upon us by Article 47 of that Order, Articles 16 and 35 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004(**2**), and all other powers enabling us in that behalf, hereby make the following Rules: –

Citation and interpretation

1.—(1) These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2005.

(2) In these Rules, a reference to an Order, Part, Appendix or Form is a reference to that Order, Part, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(**3**).

Amendment to the principal Rules

2.—(1) Order 32 Part IIA shall be amended by inserting after Rule 6NF, the following new Rules: –

"**Procedure for the admission of evidence of bad character**

6NG.—(1) A party to an appeal arising out of criminal proceedings in a magistrates' court who wants to adduce evidence of a non-appellant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 5 of the 2004 Order, shall give notice in Form 137N.

(2) Notice under paragraph (1) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

(**1**) S.I. 1980/397 (N.I. 3)
(**2**) S.I. 2004/1501 (N.I. 10)
(**3**) S.R. 1981 No. 225; to which the most recent relevant amendment was made by S.R. 2004 No. 463

(3) Any party who wishes to oppose the application under paragraph (1) shall, within 14 days from the date on which notice of the application was served on him, notify the chief clerk and every other party to the appeal, in Form 137O, of his opposition.

(4) A party to an appeal arising out of criminal proceedings in a magistrates' court who wants to adduce evidence of an appellant's bad character or to cross examine a witness with a view to eliciting such evidence, under Article 6 of the 2004 Order, shall give notice in Form 137P.

(5) Notice under paragraph (4) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

(6) An application by an appellant to exclude bad character evidence shall be in Form 137Q and shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 7 days from the date on which the notice under paragraph (4) was served on him.

(7) An appellant who is entitled to have a notice served on him under this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

(8) Without prejudice to the generality of Order 43 Rule 10, the court may, if it considers that it is in the interests of justice to do so, –

(a) allow a notice or application required under this Rule to be given in a different form or orally; or

(b) abridge or extend the time for service of a notice or application required under this Rule, either before or after that period expires.

Procedure for the admission of hearsay evidence

6NH.—(1) This Rule shall apply where a party to an appeal arising out of criminal proceedings in a magistrates' court wishes to adduce evidence on one or more of the grounds set out in Article 18(1)(a) to (d) of the 2004 Order and in this Rule, such evidence is referred to as "hearsay evidence".

(2) A party who wishes to adduce hearsay evidence shall give notice in Form 137R.

(3) Notice under paragraph (2) shall be served on the chief clerk of the appropriate county court division and on every other party to the appeal within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

(4) Any party who wishes to oppose the admission of hearsay evidence under paragraph (2) shall, within 14 days from the date on which notice was served on him, notify the chief clerk and every other party to the appeal, in Form 137S, of his opposition.

(5) A party who is entitled to have notice served on him under this Rule may waive his entitlement by so informing the court and the party who would have served the notice.

(6) Without prejudice to the generality of Order 43 Rule 10, the court may, if it considers that it is in the interests of justice to do so, –

(a) dispense with the requirement to give notice of intention to adduce hearsay evidence;

(b) allow a notice required under this Rule to be given in a different form, or orally; or

(c) abridge or extend the time for service of a notice required under this Rule, either before or after that period expires."

(2) In Order 32 Part III, Rule 7 shall be amended by inserting after the definition of the "the 1999 Order", the following definition:

""the 2004 Order" means the Criminal Justice (Evidence) (Northern Ireland) Order 2004;".

(3) Appendix I shall be amended by inserting after Form 137M, the new Forms 137N to 137S in the Schedule to these Rules.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

T. A. Burgess
Barry Valentine
James A. Agnew
Dated 15th March 2005 *Adrian Colton*

After consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 18th April 2005.
Signed by the authority of the Lord Chancellor

Baroness Ashton of Upholland
Parliamentary Under-Secretary of State,
Dated 17th March 2005 Department for Constitutional Affairs

SCHEDULE Rule 2(3)

FORMS TO BE INSERTED IN THE COUNTY COURT RULES (NORTHERN IRELAND) 1981

FORM 137NAPPLICATION FOR LEAVE TO ADDUCE EVIDENCE OF NON-APPELLANT'S BAD CHARACTER UNDER ARTICLE 5 OF THE CRIMINAL JUSTICE (EVIDENCE) (NORTHERN IRELAND) ORDER 2004Order 32: Part IIA: Rule 6NG(1)

This form shall be served on the chief clerk and on every other party to the appeal, within 14 days from the date of the service of notice of appeal from the decision of a magistrates' court.

Details required	*Notes*
Details of applicant	
Name:	
Address:	
Case details	
Name of PSNI Central Process Office:	
Central Process Office or District Command Unit reference number:	
DPP reference number:	
Appellant(s) • Name: • Address • Date of birth:	
Court venue:	The venue of the court hearing the appeal.
Date of next court appearance:	
Charges:	Give brief details (including date and location of offence) of those charges to which this application applies.
Details of the application	
Please provide the following details:	
• the particulars of the bad character evidence including how it is to be adduced or elicited at the appeal (including the names of the relevant non-appellant and other relevant witnesses); and	Article 5 of the 2004 Order.
• the grounds for the admission of evidence of a non-appellant's bad character under Article 5 of the 2004 Order.	Please attach any relevant documentation.
Extension of time for service	
Please indicate whether you are applying for an extension of time for service.	
If the answer is yes, please state your reasons.	